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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number	10/702,194
Filing Date	November 4, 2003
First Named Inventor	Stephen Solomon et al.
Art Unit	3761
Examiner Name	Kelsha L. Gibson
Attorney Docket Number	11973-003

ENCLOSURES (Check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input checked="" type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): - return receipt postcard
<div>Remarks</div>		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	PROSKAUER ROSE LLP		
Signature			
Printed name	Tiffany A. Levato		
Date	March 3, 2006	Reg. No.	50,160

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I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

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Typed or printed name	Tiffany A. Levato	Date	March 3, 2006

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Serial No.: 10/702,194
Attorney Docket: 11973-003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Solomon et al.

Serial No.: 10/702,194

Filed: November 4, 2003

For: FOOD EXTRACTION APPARATUS
AND METHOD

)
) **Group Art Unit:** 3761

)
) **Examiner:** Keshia GIBSON

INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

Sir:

In accordance with 37 CFR §§1.97 and 1.98, the items identified in this Information Disclosure Statement ("IDS") are brought to the attention of the Office. The items are listed on the attached form PTO-1449 and copies of foreign patent documents and publications are enclosed for the convenience of the Examiner.

The items identified in this IDS may or may not be "material" pursuant to 37 CFR §1.56. The submission thereof by Applicants is not to be construed as an admission that any such patent, publication or other information referred to therein is material or considered to be material (37 CFR §1.97(h)), or even qualifies as "prior art" under 35 USC § 102 with respect to this invention unless specifically designated by Applicants as such.

Applicants commissioned a Japanese law firm to conduct a prior art search. Accordingly, the Japanese foreign associates informed Applicants of three references they found to be most relevant. Those references are indicated on the PTO-1449 form. The following is a quote from the foreign associates' reporting letter:

03/08/2006 SFELEKE1 00000004 162500 10702194

01 FC:1806 180.00 DA

The patent publication 2001-29434 relates to the tube for PEG (Percutaneous Endoscopic Gastrostomy). The applicant is CREATE MEDIC Co., Ltd in Japan. The drawing of this publication is enclosed as document "A". Fig 1-1 of the document "A" shows the tube, Fig. 1-2 shows cross section at A-A in FIG. 1-1, and Fig. 1-3 shows a cross section at B-B in FIG 1-1. The tube (1) comprises a main-lumen (2) passing through from the outside end to the inside end (6), a sub-lumen (3) passing through from the outside end to the hole (7) to be located within the stomach, and a balloon-lumen (4) passing through from the outside end to a balloon (12). The main-lumen (2) is used to supply nutriment and/or medicine into the body. The sub-lumen (3) is used to extract contents of the stomach to the outside of the body. The balloon-lumen (4) is used to inflate the balloon from the outside.

The patent publication 3-18378 relates to the tube for PEG (Percutaneous Endoscopic Gastrostomy). The applicant is ABBOTT LABORATORIES Inc. in the U.S.A. This patent application claims priority to US patent application serial number 360,814 filed on June, 2, 1989 to the USPTO. This patent publication describes the branched Y-shape tube. A residual substance in the stomach is discharged to the outside of the body by using the branched Y-shape tube.

The patent publication 62-224358 relates to a suction device. The applicant is PERFECT MECHANIZATION Co., Ltd in Japan. Fig.3-1 of the attached document "A" shows the suction device. As shown in FIG.3-1, the suction device of this reference comprises a suction tube (2) to be inserted into the stomach, a pot (1), an electromagnetic valve (4), a filter (8), and a suction pump (3). Reference numeral (5) indicates a sensor for monitoring secretion within the stomach. When the sensor (5) detects secretion within the stomach, the suction pump (3) starts operation. Reference numeral (7) indicates a floating sensor for monitoring the volume of liquid sucked into the pot (1). When the detected volume becomes equal to the predetermined volume, the suction pump (3) automatically stops running.

Other Japanese references were picked up in the prior art search, however, the foreign associates did not find them to be relevant and did not provide an explanation of them.

Information Disclosure Statement Filing Provision:

☐ This IDS is believed to be timely in that it is being submitted under 37 CFR § 1.97(b), that is (1) within three months of the filing date of the application, which is not a continued prosecution application filed under § 1.53(d); or (2) within three months of entry of the national

stage as set forth in 37 CFR § 1.491; or (3) before the mailing of a first Office action on the merits; or (4) before the mailing of a first Office action after filing a request for continued examination under § 1.114. Thus, no fee is required.

- ☐ However, if the undersigned is in error in this regard, Applicant respectfully requests that the Office consider this IDS as filed under 37 CFR § 1.97(c), if applicable, and charge the fee due under 37 CFR §1.17(p) to the deposit account referenced below.
- ☐ However, if the undersigned is in error in this regard, Applicant respectfully requests that the Office consider this IDS as filed under 37 CFR § 1.97(c), if applicable, and a statement under 37 CFR § 1.97(e) is included below, thus no fee is required.
- ☒ This IDS is being submitted under 37 CFR §1.97(c), that is after mailing of a first Office action on the merits, but before a Final Action under 37 CFR §1.113 or a Notice of Allowance under 37 CFR §1.311.

- ☒ The fee due under 37 CFR §1.17(p) is submitted herewith.
- ☐ A statement under 37 CFR §1.97(e) is included below, thus no fee is required. In the event that this IDS is not received before a Final Action or a Notice of Allowance, then Applicant respectfully requests that the Office consider the filing of these papers to be submitted under 37 CFR §1.97(d) and charge the fee due under 37 CFR §1.17(p) to the deposit account below.
- ☐ This IDS is being submitted under 37 CFR §1.97(d), that is after a Final Action under 37 CFR §1.113 or a Notice of Allowance under 37 CFR §1.311, but before payment of the issue fee. A statement under 37 CFR §1.97(e) is included below. The fee due under 37 CFR §1.17(p) is submitted herewith.

Statement Under 37 CFR §1.97(e):

- ☐ Each item contained in this IDS was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this IDS.
- ☐ No item contained in this IDS was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing this

statement after making reasonable inquiry, no item of information contained in this IDS was known to any individual designated in 37 CFR §1.56(c) more than three months prior to the filing of this IDS.

Payment and/or Authorization to Charge Fees:

- ☐ A check in the amount of _____ is enclosed for the above fee(s).
- ☒ Please charge \$180.00 to Deposit Account No. 16-2500 for the above fee(s).

The Commissioner is authorized to charge any fees required by the filing of these papers, and to credit any overpayment to Proskauer Rose LLP's Deposit Account No.16-2500.

Respectfully submitted,
Proskauer Rose LLP

By: Tiffany A. Levato

Tiffany A. Levato

Reg. No. 50,160

Date: March 3, 2006

Proskauer Rose LLP
Patent Department
1585 Broadway
New York, NY 10036-8299
(212) 969-3000
PROSKAUER ROSE CUSTOMER NO: 21890

Effective on 12/08/2004.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FREE TRANSMITTAL
For FY 2005**Complete if Known**

Application Number	10/702,194
Filing Date	November 4, 2003
First Named Inventor	Solomon et al.
Examiner Name	Keshia L. Gibson
Art Unit	3761
Attorney Docket No.	11973-003

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT 180.00

METHOD OF PAYMENT (check all that apply)☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____☒ Deposit Account Deposit Account Number: 16-2500 Deposit Account Name: Proskauer Rose LLP
For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)☒ Charge fee(s) indicated below☐ Charge fee(s) indicated below, except for the filing fee☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17☒ Credit any overpayments

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FEE CALCULATION**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Fee (\$)	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Application Type Fee (\$)	Small Entity Fee (\$)	Small Entity Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES**Fee Description**

Each claim over 20 (including Reissues)

Small Entity Fee (\$)

50

Each independent claim over 3 (including Reissues)

200

Multiple dependent claims

360

Total Claims Extra Claims Fee (\$)

20 - 20 or HP = 0 x 25 =

Multiple Dependent Claims

Fee (\$)

HP = highest number of total claims

paid for, if greater than 20

Indep. Claims Extra Claims Fee (\$)

2 - 3 or HP = x =

HP = highest number of independent

claims paid for, if greater than 3

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets Extra Sheets Number of each additional 50 or fraction thereof Fee (\$)

- 100 = / 50 = (round up to a whole number) x =

Fee Paid (\$)

4. OTHER FEE(S)

Fee Paid (\$)

Non-English Specification, \$130 fee (no small entity discount)

Other: Information Disclosure Statement (IDS)

180

SUBMITTED BY

Signature	<i>Tiffany Levato</i>	Registration No. (Attorney/Agent) 50,160	Telephone (212) 969-3686
Name (Print/Type)	Tiffany A. Levato		Date March 3, 2006

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



PTO/SB/08a (08-03)

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Substitute for form 1449A/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT <i>(use as many sheets as necessary)</i>				Complete if Known	
				Application Number	10/702,194
				Filing Date	November 4, 2003
				First Named Inventor	Solomon et al.
				Art Unit	3761
				Examiner Name	Keshia GIBSON
Sheet	1	of	4	Attorney Docket Number	11973-003

U.S. PATENT DOCUMENTS					
Examiner Initials ¹	Cite No. ¹	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code ² (if known)			
		3,860,000	01-14-1975	Wootten et al.	
		4,315,509	02-16-1982	Smit	
		4,344,435	08-17-1982	Aubin	
		4,393,875	07-19-1983	Nawash et al.	
		4,553,960	11-19-1985	Lazarus et al.	
		4,642,092	02-10-1987	Moss	
		4,723,547	02-09-1988	Kullas et al.	
		4,899,747	02-13-1990	Garren et al.	
		5,071,405	12-10-1991	Piontek et al.	
		5,259,399	11-09-1993	Brown	
		5,234,454	08-10-1993	Bangs	
		5,306,300	04-26-1994	Berry	
		5,520,634	05-28-1996	Fox et al.	
		5,601,604	02-11-1997	Vincent	
		5,618,296	04-08-1997	Sorensen et al.	
		5,741,287	04-21-1998	Alden et al.	
		5,868,141	02-09-1999	Ellias	
		6,039,251	03-21-2000	Holowko et al.	
		6,077,250	06-20-2000	Snow et al.	
		6,210,347	04-03-2001	Forsell	
		6,381,495	04-30-2002	Jenkins	
		6,447,472	09-10-2002	Moss	
		6,454,785	09-24-2002	De Hoyos Garza	
		6,453,907	09-24-2002	Forsell	
		6,506,179	01-14-2003	Tiefenthal et al.	
		6,511,490	01-28-2003	Robert	
		6,579,301	06-17-2003	Bales et al.	
		6,615,084	09-02-2003	Cigaina	
		6,627,206	09-30-2003	Lloyd	
		6,659,974	12-9-2003	Moss	
		6,752,790	06-22-2004	Coombs	
		6,755,869	06-29-2004	Geitz	

FOREIGN PATENT DOCUMENTS						
Examiner Initials ¹	Cite No. ¹	Foreign Patent Document	Publication Date MM-DD- YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T ⁶
		Country Code ³ -Number ² -Kind Code ⁵ (if known)				
		WO 01/68007 A1	09-20-2001			
		WO 99/25418	05-27-1999			
		JP200129434	02-6-2001			
		JP3-18378	01-25-1991			
		JP 62-224358	10-02-1987			

NON PATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.
		MOSHE SHIKE, MD et al., An Active Esophageal Prosthesis, Gastrointestinal Endoscopy January 1995 Vol. 41 No. 1
		LAWERENCE L. HERMAN, MD et al., Percutaneous endoscopic gastrostomy for decompression of the stomach and small bowel, Gastronintestinal Endoscopy, 1992 Pgs. 314-318
		JOSHUA FELSHER, M.D et al., Decompressive percutaneous endoscopic gastrostomy in nonmalignant disease, The American Journal Of Surgery 187 (2004) 254-256
		HENRY BUCHWALD, MD et al., Bariatric Surgery, a Systematic Review and Meta-Analysis, JAMA, OCTOBER 13, 2004-VOL 292, NO. 14
		MEISSNER K. Hepatogastroenterology. 2004 Mar-Apr;51(56):462-4. Ajuvant surgical decompression gastrostomy: audit of a procedure coming of age.
		MICHAUD L et al., J Pediatr Gastroenterol Nutr. 2001 Jan; 32(1):82-5, Gastrostomy as a decompression technique in children with chronic gastrointestinal obstruction.
		HERMAN LL et al., Gastrointest Endosc. 1992 May-Jun; 38 (3): 314-8, Percutaneous endoscopic gastrostomy for decompression of the stomach and small bowel.
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		SHIKE M et al., JPEN J Parenter Enteral Nutr. 1989 Nov-Dec;13(6):648-50. Skin-level gastrostomies and jejunostomies for long-term enter-feeding.
		NASSIF AC. Obes Surg. 1991 Mar;1(1):99-102., Efficient Decompression and Immediate Enteral Hyperalimient via Gastrostomy as an Adjunct to Gastroplasty
		SHIKE M, Gastrointest Endosc. 1990 May-Jun;36(3):290-2. Combined gastric drainage and jejunal feeding through a percutaneous endoscopic stoma.
		MOSEH SHIKE, MD et al. External biliary duodenal drainage through a percutaneous endoscopic duodensotomy, Gastrointestinal Endoscopy, volume 35, no. 2, 1989
		MOSHE SHIKE, MD et al., Percutaneous endoscopic gastrostomy and jejunostomy for long-term feeding in patients with cancer of the head and neck, otolaryngology Head and Neck Surgery Vol. 101 (5), 1989.
		T. LORENTZEN et al., Percutaneous Gastrostomy guided By Ultrasound and Fluorscopy ACTA Radiologica 36 (1995) 159-162
		Francesco Doenz et al., Versatility of the Proximal Cope Loop Catheter, American Journal of Roentgenolog January 1989, 205.
		K.E. GEHMAN et al. Percutaneous Gastrojejunostomy with a Modified Cope Loop Catheter, American Journal of Roentgenology 155.79-80 (1990)
		ROBIN R. GRAY, MD, et al., Modified Catheter For Percutaneous Gastrojejunostomy RADIOLOGY 1989; 173:276-278.
		RICHARD DUSZAK, JR. MD, PERCUTANEOUS GASTROSTOMY AND JEJUNOSTOMY http://www.emedicine.com/radio/topic798.htm (7/8/2005)
		KATHERINE M. FLEGAL, PhD et al. Prevalence and Trends in Obesity Among US Adults, 1999-2000 JAMA, October 9, 2002 Vol 288, No. 14, 1723-1727
		ANDREW LUCK AND PETER HEWETT Lapraoscopic Gastrostomy: Towards The Ideal Technique Aust. N.Z. J. Surg. (1998) 68,281-283.
		F.J. THORNTON et al., Percutaneous Radiologic Gastrostomy With and Without T-Fastener Gastropexy: A Randomized Comparison Study CardioVascular Interventional Radiology (2002) 25:467-471
		OZMEN et al. Percutaneous Radiologic Gastrostomy, European Journal of Radiology 43 (2002) 186-195.

Examiner Signature		Date Considered	
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*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. 1 Applicant's unique citation designation number (optional). 2 See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. 3 Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). 4 For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. 5 Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. 6 Applicant is to place a check mark here if English language Translation is attached.

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